

Forest Management Advisory Committee
Meeting Summary
March 8, 2006
Michigan United Conservation Clubs Conference Room
2101 Wood St., Lansing

Attendees:

FMAC Members: William (Bill) Cook, Warren Suchovsky, Anne Woiwode, Lynne Boyd, Steven Arwood, Sam Washington, Thomas Dunn, Daniel Keathley, Des Jones, Mark Janke, Gordon Wenk, Frank Ruswick, Ken Arbogast (Forest Service committee advisor), Georgia Peterson (staff support).

Joel Blohm, William (Bill) Bobier, John Fowler, Margaret (Peg) Gale, Susan Holben, Leland Crawford, William (Bill) Manson were absent.

Other Attendees: Erin McDonough (MUCC-Delegate), Garret Johnson (Forest Finance Authority), George Berghorn (Michigan Forest Products Council), Stephen Shine (MDA).

Welcome

Lynne Boyd welcomed FMAC members and guests.

Additions to the agenda:

- Forest bill package status
- Certification audit progress

Subtractions to agenda

- John Witter's presentation was postponed until the May 3rd FMAC meeting

Meeting Summary

Daniel Keathley moved to approve February 8 FMAC meeting summary. Bill Cook seconded.

Commercial Forest Bill Discussion

Sam Washington expressed MUCC's concerns about HB 5454, where owners of Commercial Forest lands would only have to prove that there is public access for hunting and fishing if the CF land was acquired after 1995. This is a fraction of the CF land enrolled in the program. He felt the FMAC should oppose this bill.

Anne Woiwode posed the question of what specific issues are related to public access on CF lands.

Lynne Boyd feels this bill will likely be dropped. If this bill were to be passed, she feels the FMAC would be a good forum for discussing options or alternatives, such as recommending different levels, or tiers, or access with different levels of tax relief.

Sam Washington moved that the group agree to look at the problem of access in hope of finding consensus on the CF program as well as other types of properties. Seconded by Steve Arwood. Other FMAC members were not clear on the wording of the proposed motion, so Sam Washington agreed to more formally word it. This motion was then tabled until the next (April 5th) meeting.

Lynne briefly discussed the 90,000 cord diversion fund bill (HB 5628), and the DNR's opposition to it.

Right to Forest Legislation - Working Group Updates

Chemicals Working Group

Anne Woiwode discussed GAFMPs for use of pesticides. Their team used the MDA pesticide use guidelines as a starting point, inserting forest-specific information where needed. She asked how these kinds of GAFMPs would be applied (i.e., if forest owners don't comply, what happens). Group suggested the wording should be clear on what a landowner *must* do, then also provide suggestions on what the owner *should* do. Since pesticide use falls under the purview of MDA, how much flexibility can there be for GAFMPs?

Frank Ruswick outlined the differences among different levels of legal action: criminal, regulatory, trespass, and nuisance. Nuisance is defined as "unreasonable interference with the use and enjoyment of property." The role of the GAFMPs would be to provide an "affirmative defense" against nuisance suits. The group felt there is a need to emphasize that management itself (i.e., removing trees) is not a nuisance. Warren Suchovsky also pointed out a need for education and outreach on these matters, as well as encouraging good management plans. The group suggested that the MDA, DNR and DEQ discuss the proper arrangement related to various legal directives and responsibilities related to pesticide use. The working group will return to their draft and clarify—in light of Mr. Ruswick's descriptions—what could be considered a nuisance on this subject.

Removal of Vegetation Working Group

Erin McDonough discussed the group's attempts to define what is not a nuisance within a vegetation removal context. They would like the document to be a resource for both the landowner and his/her neighbors (i.e., "good neighbor practices"). They looked at Wisconsin's and Minnesota's visual guidelines, but want to emphasize that listed acceptable practices are not necessarily the only activities that can be done. The FMAC group suggested using the term "normal" in any wording related to management practices. Buffer strips are a potentially questionable nuisance/non-nuisance technique. They may want to leave out that topic. The working group also questioned how the issue of nuisances and invasive species should be addressed.

The group suggested the vegetation working group state that, if the landowner followed an approved management plan (by a qualified professional), it would be following accepted practices (i.e., wouldn't constitute a nuisance). They also asked where water quality Best Management Practices fit in this process. Also, they asked if the forest is certified, would it qualify as a non-nuisance. For instance, Des Jones suggested the Tree Farm system has covered a lot of these aspects. Warren Suchovsky felt that a management plan could be written and approved by a professional other than a forester, such as a wildlife manager or other natural resource professional. A consensus would need to be reached, however, about a specific definition of such a natural resource professional.

The group also feels that slash needs to be addressed in this GAFMP section. Third party forest certification covers this, as well as certified logger training.

Visual Quality Management Working Group

George Berghorn led the discussion for this group. There is nothing available from this group in writing yet. They are looking at Wisconsin's and Minnesota's guidelines, with augmentation. They are also considering incorporating information from "slash law." Throughout this topic, they are trying to remain broad in scope, rather than listing all possible acceptable practices.

Noise and Dust Working Group

Warren Suchovsky sent a report to Kerry Gray, but she had left for vacation before receiving it. Lynne agreed to find the report and distribute it to FMAC members as soon as possible. The working group is listing specific acceptable practices related to noise and dust, and are also including "good neighbor" suggestions. They are also including recommendations on smoke management, such as for prescribed burns. They would like to include information on the use of airplanes, but are not sure how to describe their use (such as for pesticide applications, surveillance, etc.).

Limiting Factor Legislation Discussion

Lynne Boyd led a discussion on pending legislation related to limiting factors (SB 0918). As written, the bill states that if the factor is not federal or state law, or limited by certification, the DNR would have to write an administrative rule to not harvest that site. This would require a significant amount of time and effort among DNR staff. She provided a handout summarizing silvicultural treatment criteria and treatment-limiting factors. These factors are only determined when a forest technician was on that site, and attempted to describe what he/she saw. The biggest factor being reviewed is "too wet," which the DNR (even before the legislation) has been working with industry to look at new harvesting technologies in wet areas.

Anne Woiwode feels that the DNR open houses and compartment reviews are designed to address these limiting factors already (i.e., allows public and specific interest input in the process). Could factor definitions be better defined by the FMAC?

Warren Suchovsky asked how these factors affect the bidding process, and what are the consequences if harvesting activities are *not* conducted on some lands.

If, legislatively, limiting factors are discounted, Ms. Boyd believes the DNR would need to be re-audited for certification.

Public Comment – none

Next Meeting

April 5 meeting will take place at the US Forest Service headquarters in St. Ignace on **Wednesday, April 5th from 1pm to 4pm.**

Suggested agenda items for next meeting:

- Continue with GAFMP working group discussions. The product from the FMAC is enough language detail to meet the “affirmative defense” criteria. (Consider having DNR staff compile various group’s input, in outline or summarized form, for commission review. May find some common statements or items between different subject areas)
- Forest, Mineral & Fire Management Budget
- Choose dates and locations for future FMAC meetings.
- Resume motion on forest land access with Sam Washington
- Provide any other agenda items to Kerry Gray (517-241-1833 or grayk@michigan.gov)

Upcoming meetings:

- May 3 from 1pm-4pm (Location: MUCC office – Lansing)

Meeting adjourned at 12:18pm.

Submitted by Georgia Peterson